


PTO/SB/21 (09-04)

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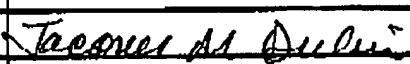
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/700,784
	Filing Date	11/3/03
	First Named Inventor	Dulin
	Art Unit	1614
	Examiner Name	Royds
Total Number of Pages in This Submission  19	Attorney Docket Number	7176 004US (formerly 7112-004US)

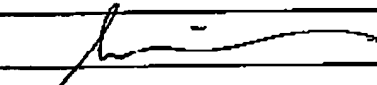
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Innovation Law Group, Ltd.		
Signature			
Printed name	Jacques M. Dulin, Esq.		
Date	February 16, 2005	Reg. No.	21,067

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Betty Oppenheimer	Date	Feb. 16, 2006


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:) Attorney Docket No. 7175-004US
 Jacques M. Dulin)
) Group Art Unit: 1614
Serial No.: 10/700,784) Examiner: Leslie A. Royds
Filed: November 3, 2003) Date of Fax: February 16, 2006
) Phone: 571 - 272 - 6096
Title: **Oral Hygiene System and**)
 Method of Treatment) Fax Phone: 571 - 273 - 8300

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Certification under 37 CFR 1.6	Faxing Date: February 16, 2006	# Pages 18
I hereby certify that this paper is being sent on the above stated date by fax to Examiner Leslie Royds at the telephone number <u>571 - 273 - 8300</u> .		
Name: Betty Oppenheimer	Signature: 	

RESPONSE TO OFFICE ACTION OF NOVEMBER 16, 2005
REQUEST FOR TELEPHONE INTERVIEW
THIS CASE IS SPECIAL

MAIL STOP AMENDMENT
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Sir:

Section 1, Introduction:

This is Applicant's Response to the outstanding non-final Office Action dated November 16, 2005, currently due on February 16, 2006. Since this Response is filed within the 3-month period and no new claims are introduced no fee is due. However, should this be in error, the Office is authorized to charge any fee due to Deposit Account 04-1699. Please reference Docket Number 7112-004 US in connection with any transaction to assist counsel in tracking.

Request for Telephone Interview:

Applicant requests a Telephone Interview with the Examiner to discuss the claims and references. The Examiner is requested to contact undersigned counsel at 360-681-7305 to set up a time mutually convenient for the Interview.

7175-004US
Response to OA of 11-16-05
Final as Filed 2-16-06

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Updated Declaration Has Been Submitted:

Per the requirement on pages 4 and 5 of the Detailed Action, Applicant submitted a newly-executed Declaration on February 14, 2006 that includes the information on the PCT Serial Number and filing date, which was the same date as the filing of this Application. Entry and withdrawal of the requirement is requested.

Request Reconsideration and Withdrawal of Restriction Requirement:

Applicant understood his provisional election of Group I, claims 1 – 15, made orally on Nov 9, 2005, was with traverse.

Contrary to the Statement on page 3 of the Detailed Action the method for oral hygiene cannot be practiced by toothbrush, toothpaste, floss and mouthwash. The Office has provided no evidence that the methods are the same. Indeed, that erroneous statement shows extreme prejudice against the inventive system, and has led to mis-application of non-analogous references..

The invention comprises a new medication delivery system and method of its use specifically applied to oral hygiene that is targeted to insertion in the buccal vestibules for long-term delivery of anti-microbial solutions to the sulcus and inter-dental spaces. The single-use sterile cotton rolls are moistened with a single dose amount of topical oral medication and inserted in the buccal vestibules. The rolls remain in the buccal vestibules for a time sufficient to be effective, on the order of 5 – 30 minutes, and then they are removed and disposed-of. The rolls are single-use, single dose, disposable and portable. They can be used any time; one can speak, move and even eat with them in place. Even moistened with boric acid-type solutions, they do not burn, unlike the popular Listerine brand mouthwash. See page 2, line 23 through page 3, line 14 of the Specification.

That method cannot be practiced with a toothbrush, as it is a delivery system specially adapted for buccal vestibules. Can you picture toothbrushes in all 4 buccal vestibules for 30 minutes? You don't brush your buccal vestibules, you brush teeth. The purpose of the invention is to overcome the ineffectiveness of mouthwash swished around in the mouth, and by delivering treatment medication directly to the targeted area.

It is improper to base a Restriction Requirement on an erroneous statement that a quite different implement can be used to achieve the same purpose. Indeed, note that the Office Action asserts that both the device and the method are classified in Class 514, Subclass 568. The search has already covered both the product and the process, and the Office Action repeatedly refers to usage and process steps.

Accordingly, review and withdrawal of the Restriction Requirement is requested. In any

event, Applicant traverses the requirement.

Response to Election of Species; Provisional Election of "Anti-Microbial":

To the extent the election of species requirement (pages 3 and 4 of the Detailed Action) is understood, Applicant traverses this requirement as well. The invention is directed to a medication delivery platform: single use, single-dose, disposable, portable, medication-moistened cotton rolls specifically adapted for insertion in the buccal vestibules for extended time-period delivery of an anti-microbial or therapeutic composition to the sulcus and inter-dental spaces. Although the compositions are not equivalent, and use of one is not obvious in view of use of another, to the extent any composition is required to be elected, Applicant provisionally elects "antimicrobial compound or compositions" as called for in line 2 of Claim 3. Since both compositions of Claim 5 are anti-microbials, Claim 5 should not be withdrawn. Even if Applicant had elected benzoic acid, the Markush claim 5 must be examined. If it is not examined, then the alleged election is meaningless. The Office is respectfully requested to explain the inconsistency.

Upon allowance of the "anti-microbial" species, per the MPEP, up to 5 additional species must be examined, and that covers all the "species" of claim 3.

Summary of Claim Status, Including Current Status:

Claims 1 – 20 are in this case. Applicant has provisionally elected claims 1 – 15, with traverse, and the "anti-microbial" species of claim 3, also with traverse. Accordingly, no claims are cancelled, and all 20 are presented herewith, with their current status being indicated adjacent each, per the PTO Revised Notice dated 02/13/03.

Note, the erroneous duplicate claim 3 has been deleted from the claim list to prevent confusion.

End of Section 1, Introduction: